

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GOLDEN BAY ENTERPRISES, INC.,

Plaintiff,

-against-

WAL-MART STORES, INC.,

Defendant.
-----X

NOTICE OF MOTION

CASE NO. 00-CV-6977 (CBA) (JMA)

SIRS:

PLEASE TAKE NOTICE that upon the attached Affirmation of James W. Badie, affirmed the 18th day of January, 2008, and upon the Complaint herein, plaintiff will move this court, before the Hon. Joan M. Azrack, U.S.D.J., in Room 1210S, United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on the 22nd day of February, 2008, at 9:30 a.m. or as soon as counsel can be heard, for an order pursuant to the Federal Rules of Civil Procedure and applicable rules of the Eastern District of New York, granting this motion to reopen the case and schedule a Conference to discuss the dispute between the parties regarding compliance with the Settlement Agreement.

Dated: New York, New York
January 22, 2008



James W. Badie
Stoll, Miskin & Badie
Attorneys for Plaintiff Golden Bay Enterprises
The Empire State Building
350 Fifth Avenue, Suite 4710
New York, New York 10118
Telephone: (212) 244-5632
Facsimile: (212) 244-1364
Email: badielaw@worldnet.att.net

Exhibit "5"

TO: John James McGlew, Esq.
McGlew and Tuttle, P.C.
Attorneys for Defendant Wal-Mart Stores, Inc.
Scarborough Station Plaza
Scarborough, New York 10510-9227
Telephone: (914) 941-5775
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Email: jjmcglew@mcglewtuttle.com

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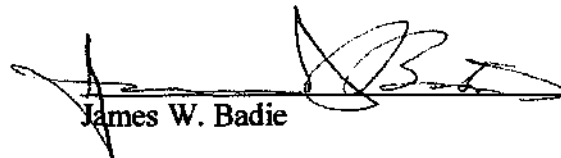
MEMORANDUM OF LAW
CASE NO. 00-CV-6977 (CBA) (JMA)

I, JAMES W. BADIE, affirm the following under the penalties of perjury:

1. I am an attorney at law duly admitted to practice before the courts of the State of New York; I represent the plaintiff GOLDEN BAY ENTERPRISES, INC., and respectfully move this Court to issue an order to reopen the case and schedule a Conference between the parties.

2. The reason why I am entitled to the relief I seek is the following: A dispute has arisen between the parties regarding compliance with the Settlement Agreement, and plaintiff wishes to pursue its option under the Stipulation of Dismissal ordered the 13th day of October, 2004, by the Honorable Joan M. Azrack, U.S.D.J. pursuant to which the Court retained jurisdiction of the parties as to settlement.

Dated: 1.22.08


James W. Badie

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WAL-MART STORES, INC.,

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AFFIRMATION OF SERVICE

CASE NO. 00-CV-6977 (CBA) (JMA)

I, James W. Badie, Esq., declare under penalty of perjury that I have served a copy of the attached Notice of Motion, Memorandum of Law, Letter, Stipulation of Dismissal and Settlement Agreement upon:

John James McGlew, Esq.
McGlew and Tuttle, P.C.
Attorneys for Defendant Wal-Mart Stores, Inc.
Scarborough Station Plaza
Scarborough, New York 10510-9227

Dated: New York, New York
January 22, 2008


James W. Badie
Stoll, Miskin & Badie
Attorneys for Plaintiff Golden Bay Enterprises
The Empire State Building
350 Fifth Avenue, Suite 4710
New York, New York 10118
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